

REMARKS

Claims 1-110 are pending. In this Response, claim 102 has been amended.

I. RESTRICTION REQUIREMENT

The Examiner asserts that the application contains claims directed to the following patentably distinct species: "Any one species or any one set of drawings of one species in figures 1-37."

The Examiner also asserts that "Currently, no claims are generic to all figures."

The Examiner requires that Applicant elect a single disclosed species for prosecution on the merits and include an identification of the species that is elected consonant with this requirement and a listing of all claims readable thereon.

Applicant provisionally elects claims 1, 3-6, 8-11, 14, 16-18, 22, 25, 29-37, 40, 41, 43, 44, 46, 48, 50-52, 54-58, 61-62, 64, 66-68, 101/1, 101/41, 101/61, 102/1, 102/41, 102/61, 103/1, 103/41, 103/61, 104/1, 104/41, 104/61, 105/1, 105/41, 105/61, 106/1, 106/41, 106/61, 107/1, 107/41, 107/61, 108/1, 108/41, 108/61, 109/1, 109/41, 109/61, 110/1, 110/41 and 110/61 (Figures 19A, 19B and 19C) for prosecution on the merits. Applicant also traverses the restriction requirement and requests that it be withdrawn.

The restriction requirement is flawed for several reasons.

First, claim 1 (and may other claims) is generic to all the figures.

Second, there must be a serious burden on the Examiner if the restriction is required (M.P.E.P. § 803). Where the related inventions as claimed are shown to be distinct, the Examiner, in order to establish reasons for insisting upon restriction, must show by appropriate explanation one of the following: (A) separate classification thereof; (B) a separate status in the art when they are classifiable together; or (C) a different field of search (M.P.E.P. § 808.02).

The Examiner has not even attempted to explain how examining the species would involve separate classification, separate status in the art, or a different field of search (M.P.E.P. § 808.02). Therefore, the Examiner has ignored mandatory elements set forth in the M.P.E.P. and the restriction requirement is improper.

The Examiner has the burden of establishing that the restriction requirement is justified. The mandatory elements set forth in the M.P.E.P. prevent the Examiner from having unfettered discretion over issuing restriction requirements that force Applicant to file divisional applications and absorb the related costs and delays in order to have the non-elected claims considered on the merits. If, however, the Examiner can obtain a restriction requirement merely by asserting that different figures are different species then these mandatory elements are easily circumvented and rendered meaningless.

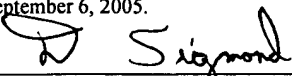
II. AMENDMENTS

The Specification and Claims have been amended to improve clarity. No new matter has been added.

III. CONCLUSION

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance. Should any issues remain, the Examiner is encouraged to telephone the undersigned attorney.

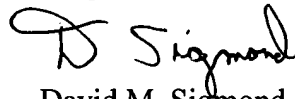
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on September 6, 2005.



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9/6/05
Date of Signature

Respectfully submitted,



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